

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Patrizia PATERLINI-BRECHOT

Application No.: 10/695,744 ✓

Confirmation No.: 7652

Filed: October 30, 2003

Art Unit: 1634

For: PRENATAL DIAGNOSIS METHOD ON
ISOLATED FOETAL CELL OF MATERNAL
BLOOD

Examiner: C. J. Myers

REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT

UNDER 37 CFR § 1.705 (d)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Madam:

Pursuant to CFR § 1.705 (d), the Applicant hereby requests reconsideration of the Patent Term Adjustment (PTA) indicated on the Notice of Allowance for Application No. 10/695,744 (Exhibit 1). The Notice of Allowance indicates that the PTA is 0 days. However, Applicant submits that the PTA should correctly be 75 days.

STATEMENT OF FACTS

1. The Notice of Allowance, which issued in this case on May 28, 2009, indicated that the PTA to date was 0 days, (see page 3 of Exhibit 1).
2. The U.S. Patent and Trademark Office's PTA History, as found in the Patent Application Information Retrieval (PAIR) system, indicates a PTA due to

prosecution delays of 0 days, based upon 305 days of USPTO delays minus 378 days of Applicant delay (see Exhibit 2).

3. However, the PAIR system does not indicate any PTA due to the USPTO's failure to issue a patent within three (3) years (36 months) from the actual filing date of the application, October 30, 2003 (37 C.F.R. § 1.702(b)), which delay was 148 days.
4. In accordance with the recent District Court decision in *Wyeth et al. v. Dudas*, 88 USPQ2d 1538 (D.D.C. 2008), the correct PTA should be 305 days of PTO Prosecution delay, less 378 days of applicant delay, plus 148 days for the failure of the USPTO to issue a patent within three (3) years of the actual filing date of the application (37 C.F.R. § 1.702(b)), for a total of 75 days of PTA.
5. Accordingly, Applicant hereby requests that the U. S. Patent and Trademark Office correct the calculation of the PTA for the above-identified patent to 75 days.

**COMPLIANCE WITH REQUIREMENTS OF
37 CFR § 1.705 (b)(1) AND (2)**

6. A statement of facts is presented above, detailing the relevant dates and the correct PTA.
7. The present application is not subject to any Terminal Disclaimer or any expiration date specified in a Terminal Disclaimer (§ 1.705(b)(2)(iii)).
8. There were no circumstances constituting a failure to engage in reasonable efforts to conclude processing or examination of the above-identified application (§ 1.705(iv)(B)).

CONCLUSION

The USPTO is requested to correctly indicate that U.S. Application No. 10/695,744 is entitled to 75 days of Patent Term Adjustment.

PAYMENT OF FEES

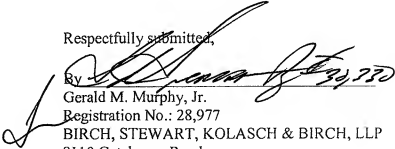
As set forth in the attached Fee Transmittal, the Commissioner is hereby authorized to charge the amount of \$200.00 to Deposit Account No. 02-2448 for the consideration of this Request as required by 37 C.F.R. § 1.18(e).

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Gerald M. Murphy, Jr., Reg. No. 28,977 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

Dated: August 27, 2009

Respectfully submitted,


BY _____
Gerald M. Murphy, Jr.
Registration No.: 28,977

BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road
Suite 100 East
P.O. Box 747
Falls Church, Virginia 22040-0747
(703) 205-8000
Attorney for Applicant



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/695,744

10/30/2003

Patrizia Paterlini-Brechot

2121-0178P

7652

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7590

05/28/2009

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

EXAMINER

MYERS, CARLA J

ART UNIT

PAPER NUMBER

1634

DATE MAILED: 05/28/2009

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 0 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 0 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

EXHIBIT 1

| | | |
|------------|---|----------------------|
| 10/695,744 | PRENATAL DIAGNOSIS METHOD ON ISOLATED FOETAL CELL OF MATERNAL BLOOD | 07-30-2009::15:36:04 |
|------------|---|----------------------|

Patent Term Adjustments

| | | | |
|---|------------|--------------------------------------|-----|
| Patent Term Adjustment (PTA) for Application Number: 10/695,744 | | | |
| Filing or 371(c) Date: | 10-30-2003 | USPTO Delay (PTO) Delay (days): | 305 |
| Issue Date of Patent: | - | Three Years: | - |
| Pre-Issue Petitions (days): | +0 | Applicant Delay (APPL) Delay (days): | 378 |
| Post-Issue Petitions (days): | +0 | Total PTA (days): | 0 |
| USPTO Adjustment(days): | +0 | Explanation Of Calculations | |

Patent Term Adjustment History

| Date | Contents Description | PTO(Days) | APPL(Days) |
|------------|--|-----------|------------|
| 05-28-2009 | Mail Notice of Allowance | | |
| 05-25-2009 | Document Verification | | |
| 05-25-2009 | Notice of Allowance Data Verification Completed | | |
| 05-22-2009 | Examiner's Amendment Communication | | |
| 04-25-2009 | Date Forwarded to Examiner | | |
| 04-15-2009 | Response after Non-Final Action | | 90 |
| 04-15-2009 | Request for Extension of Time - Granted | | ⬆ |
| 10-15-2008 | Electronic Review | | ⬆ |
| 10-15-2008 | Email Notification | | ⬆ |
| 10-15-2008 | Mail Non-Final Rejection | | ⬆ |
| 10-09-2008 | Non-Final Rejection | | |
| 02-20-2008 | Information Disclosure Statement considered | | |
| 08-20-2008 | Date Forwarded to Examiner | | |
| 08-20-2008 | Date Forwarded to Examiner | | |
| 08-05-2008 | Request for Continued Examination (RCE) | | 92 |
| 08-20-2008 | DISPOSAL FOR A RCE/CPA/129 (express abandonment if CPA) | | ⬆ |
| 08-05-2008 | Request for Extension of Time - Granted | | ⬆ |
| 08-05-2008 | Workflow - Request for RCE - Begin | | ⬆ |
| 02-20-2008 | Information Disclosure Statement (IDS) Filed | | ⬆ |
| 02-20-2008 | Miscellaneous Incoming Letter | | ⬆ |
| 02-20-2008 | Information Disclosure Statement (IDS) Filed | | ⬆ |
| 02-06-2008 | Electronic Review | | ⬆ |
| 02-05-2008 | Email Notification | | ⬆ |
| 02-05-2008 | Mail Final Rejection (PTOL - 326) | | ⬆ |
| 01-31-2008 | Final Rejection | | |
| 12-18-2007 | Email Notification | | |
| 12-03-2007 | Mail Miscellaneous Communication to Applicant | | |
| 11-29-2007 | Miscellaneous Communication to Applicant - No Action Count | | |
| 10-31-2007 | Improper Request for Continued Examination | | |
| 11-29-2007 | Date Forwarded to Examiner | | |
| 10-31-2007 | Response after Non-Final Action | | 76 |

EXHIBIT 2

| | | |
|------------|--|-----|
| 10-31-2007 | Request for Extension of Time - Granted | ⬆ |
| 10-31-2007 | Workflow - Request for RCE - Begin | ⬆ |
| 05-17-2007 | Electronic Review | ⬆ |
| 05-16-2007 | Email Notification | ⬆ |
| 05-16-2007 | Mail Non-Final Rejection | ⬆ |
| 05-10-2007 | Non-Final Rejection | |
| 03-30-2007 | Date Forwarded to Examiner | |
| 03-30-2007 | Date Forwarded to Examiner | |
| 03-30-2007 | Date Forwarded to Examiner | |
| 03-28-2007 | Request for Continued Examination (RCE) | |
| 03-30-2007 | DISPOSAL FOR A RCE/CPA/129 (express abandonment if CPA) | |
| 03-28-2007 | Workflow - Request for RCE - Begin | |
| 12-20-2006 | Mail Advisory Action (PTOL - 303) | |
| 12-18-2006 | Advisory Action (PTOL-303) | |
| 12-08-2006 | Date Forwarded to Examiner | |
| 11-28-2006 | Amendment/Argument after Notice of Appeal | |
| 11-28-2006 | Notice of Appeal Filed | 61 |
| 11-28-2006 | Request for Extension of Time - Granted | ⬆ |
| 06-28-2006 | Mail Final Rejection (PTOL - 326) | ⬆ |
| 06-26-2006 | Final Rejection | |
| 03-31-2006 | Miscellaneous Incoming Letter | |
| 03-31-2006 | Certified Translation of Foreign Priority Document | |
| 04-12-2006 | Date Forwarded to Examiner | |
| 03-31-2006 | Response after Non-Final Action | 59 |
| 03-31-2006 | Request for Extension of Time - Granted | ⬆ |
| 04-07-2006 | CRF Is Good Technically / Entered into Database | ⬆ |
| 10-31-2005 | Mail Non-Final Rejection | 305 |
| 10-27-2005 | Non-Final Rejection | ⬆ |
| 02-12-2004 | Information Disclosure Statement considered | ⬆ |
| 10-11-2005 | IFW TSS Processing by Tech Center Complete | ⬆ |
| 10-11-2005 | Case Docketed to Examiner in GAU | ⬆ |
| 02-12-2004 | Reference capture on IDS | ⬆ |
| 02-12-2004 | Information Disclosure Statement (IDS) Filed | ⬆ |
| 02-12-2004 | Information Disclosure Statement (IDS) Filed | ⬆ |
| 02-12-2004 | Request for Foreign Priority (Priority Papers May Be Included) | ⬆ |
| 11-17-2004 | Application Return from OIPE | ⬆ |
| 11-17-2004 | Application Return TO OIPE | ⬆ |
| 11-17-2004 | Application Return from OIPE | ⬆ |
| 11-17-2004 | Application Is Now Complete | ⬆ |
| 11-17-2004 | Application Return TO OIPE | ⬆ |
| 11-17-2004 | Application Return from OIPE | ⬆ |

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|------------|--|---|
| 11-17-2004 | Application Is Now Complete | ⬆ |
| 11-17-2004 | Application Return TO OIPE | ⬆ |
| 11-17-2004 | Application Dispatched from OIPE | ⬆ |
| 11-17-2004 | Application Is Now Complete | ⬆ |
| 10-12-2004 | Additional Application Filing Fees | ⬆ |
| 10-30-2003 | Claim Preliminary Amendment | ⬆ |
| 08-13-2004 | A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic | ⬆ |
| 10-12-2004 | Translation of Claims into English | ⬆ |
| 10-12-2004 | Applicant has submitted new drawings to correct Corrected Papers problems | ⬆ |
| 10-12-2004 | Translation of Specification into English | ⬆ |
| 08-11-2004 | Notice Mailed--Application Incomplete--Filing Date Assigned | ⬆ |
| 01-21-2004 | Cleared by OIPE CSR | ⬆ |
| 12-02-2003 | IFW Scan & PACR Auto Security Review | ⬆ |
| 10-30-2003 | Initial Exam Team nn | ⬆ |

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